

Translation

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PATENT COOPERATION TREATY

PCT/AT2003/000325



PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference R 42520	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/AT2003/000325	International filing date (day/month/year) 30 October 2003 (30.10.2003)	Priority date (day/month/year) 31 October 2002 (31.10.2002)
International Patent Classification (IPC) or national classification and IPC G01N 1/36		
Applicant ORIDIS BIOMED FORSCHUNGS- UND ENTWICKLUNGS GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand 24 May 2004 (24.05.2004)	Date of completion of this report 04 January 2005 (04.01.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ The international application as originally filed/furnished
- ☒ the description:
- pages _____ 1-14 _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- pages _____ 1-25 _____, as originally filed/furnished
- pages* _____, as amended (together with any statement) under Article 19
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the drawings:
- pages _____ 1/7-7/7 _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1-25	YES
	Claims		NO
Inventive step (IS)	Claims	1-25	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-25	YES
	Claims		NO

2. Citations and explanations

Reference is made to the following documents:

D1: US-A-6 103 518 (LEIGHTON STEPHEN B) 15 August
2000 (2000-08-15)

The present application meets the requirements of PCT Article 33(1) because the subject matter of claim 1 involves an inventive step (PCT Article 33(3)).

D1 is considered the prior art closest to the subject matter of claim 1. D1 discloses (the references in parentheses relate to said document) a method for manipulating samples, in particular tissue samples, wherein holes are punched in sample carriers (4) using needles (2) and samples are punched out of preparations (19), in particular prepared tissue portions, said samples being introduced into the punched-out holes in the sample carriers and the position of the surface of the sample carriers and preparations being detected prior to the punching process.

In one of the embodiments known from D1, the position is detected using mechanical feelers - "stylets" - as is acknowledged in the description of the present application.

D1 also describes a second embodiment (figure 4 and column 10, lines 43-55) in which the function of the stylets is assumed by a pneumatic system. In particular, in this case, the position of the surface is detected via lines (53) which terminate in the needles, wherein the excess pressure generated as the needles approach the surface of the sample carrier or preparation is detected in the line.

The subject matter of claim 1 differs therefore from the known method merely in that, instead of excess pressure in a blowline, negative pressure in a suction line is used.

This difference solves the technical problem of enabling a higher degree of precision to be achieved in the detection of the surface.

The negative pressure in the suction line also reduces the risk of the sample carrier being destroyed or polluted by the action of the pressurised air, and helps the uptake of the sample material in the needles.

The available prior art contains no direct suggestions that might lead a person skilled in the art to these advantages of the negative pressure method.

The method according to claim 1 can therefore be considered novel and inventive (PCT Article 33(3)).

The same reasoning applies accordingly to claim 10, the features of which correspond to the steps of claim 1. The subject matter of claim 10 therefore also involves an inventive step (PCT Article 33(3)).

Claims 2-9 and 11-25 are dependent on claims 1 or 10 and

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therefore likewise meet the PCT novelty and inventive step requirements.